

# SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION BY SENATE

## FLOOR AMENDMENT

No. \_\_\_\_\_

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\_\_\_\_\_  
(Date)

Mr./Madame President:

I move to amend Senate Bill No. 1, Page 17, Line 13 1/2,

as follows:

By inserting new SECTIONS 3 through 10 to read as per attached, by renumbering subsequent sections, and by amending the title to conform.

Submitted by:

\_\_\_\_\_  
Senator Debbe Leftwich

Leftwich-CD-FA-SB1  
10/25/2007 10:46 AM

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-513 of Title 14A, unless there is created a duplication in numbering, reads as follows:

Sections 3 through 10 of this act shall be known and may be cited as the “Tax Preparers Oversight Act”.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-513.1 of Title 14A, unless there is created a duplication in numbering, reads as follows:

As used in the Tax Preparer Oversight Act:

1. “Administrator” means the Administrator of Consumer Affairs;
2. “Board” means the Tax Preparer Oversight Board;
3. “Client” means an individual or entity for whom a tax preparer performs or agrees to perform tax preparation services;
4. “Commission” means the Commission on Consumer Credit;
5. “Income tax return” means a return, declaration, statement, refund, claim or other document required to be made or filed in connection with state or federal income taxes;
6. “Tax preparer” means:
  - a. an individual who assists with or prepares or offers to assist with or prepare in any one calendar year five or more tax returns for other individuals or entities or who assumes final responsibility for completed work on such tax returns on which preliminary work has been done by other individuals for a fee or for other consideration. An individual engaged in that activity shall be deemed to be a separate individual irrespective of affiliation with, or employment by, another tax preparer, or
  - b. a corporation, partnership, limited partnership, association, or other entity that has associated with it individuals not specifically exempted in this section who

have as part of their responsibilities the preparation of data and ultimate signatory authority on tax returns, who assists with or prepares or offers to assist with or prepare in any one calendar year five or more tax returns for other persons or entities or who assumes or represents as having final responsibility for completed work on such returns on which preliminary work has been done by other individuals for a fee or for other consideration,

c. “tax preparer” shall not include:

- (1) an individual who holds a valid certificate or license from the Oklahoma Accountancy Board and any employee of the certificate or license holder while functioning within the scope of their employment,
- (2) a person licensed to practice law in this state who renders service within the course and scope of the practice of law and any employee of the license holder while functioning within the scope of their employment,
- (3) an individual enrolled to practice before the U.S. Internal Revenue Service, referred to as “Enrolled Agents”,
- (4) a financial institution regulated by the state or federal government and any employee whose activities are related to their employment and the activities of the financial institution with respect to tax preparation which are subject to federal or state examination or oversight,
- (5) any other individual corporation, partnership, association, or other entity subject to regulation of the Oklahoma Banking Code and any employee while functioning within the scope of their employment, or
- (6) any individual functioning within the scope of their employment who prepares income, sales, payroll, or other tax returns for their employer.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-513.2 of Title 14A, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created a Tax Preparer Oversight Board which shall be responsible for the registration and regulation of tax preparers in the State of Oklahoma. The Board shall advise the Administrator of Consumer Credit and the Commission on Consumer Credit on rules and all other matters relating to the regulation of tax preparers in this state.

B. The Tax Preparer Oversight Board shall consist of five (5) members, two of whom shall be persons who have been tax preparers as defined in Section 4 of the Tax Preparer Oversight Act for not less than five (5) years prior to appointment, one Certified Public Accountant or Public Accountant who is registered with the Oklahoma Accountancy Board, one Enrolled Agent registered with the United States Internal Revenue Service, and one public member who shall be appointed by the Governor to a term coterminous with the Governor as follows:

1. For the initial appointments:

- a. one tax preparer member shall be appointed to serve until October 1, 2008,
- b. one tax preparer member shall be appointed to serve until October 1, 2009,
- c. the Certified Public Accountant or Public Accountant member shall be appointed to serve until October 1, 2008, and
- d. the Enrolled Agent member shall be appointed to serve until October 1, 2009;

2. Thereafter, except for the public member, each member shall be appointed to serve terms of five (5) years;

3. Each member shall serve until such time as the successor member has been appointed;

4. Any vacancy in the Board shall be filled by the Governor in the manner provided for regular appointments;

5. Members may be removed by the Governor for cause; and

6. Members shall serve without compensation, but shall be reimbursed for expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

C. The Board shall establish rules of procedure which shall include, but not be limited to, the following guidelines:

1. Elect a chair and such other officers as deemed necessary annually;
2. Establish a quorum of not less than three (3) members to conduct business;
3. Establish meeting dates of not less than four (4) times annually; and
4. Compliance with the Administrative Procedures Act, the Oklahoma Open Meeting Act, and such other statutory provisions applicable to boards, commissions, and committees.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-513.3 of Title 14A, unless there is created a duplication in numbering, reads as follows:

A. The Tax Preparer Oversight Board shall:

1. Develop and administer the examination for registration as a tax preparer including exemptions for holders of acceptable accreditation credentials;
2. Develop and administer forms for use in implementing the provisions of the Tax Preparer Oversight Act including, but not limited to, forms for initial registration and renewal registration;
3. Make reports and recommendations to the Commission on Consumer Credit pursuant to the provisions of the Tax Preparer Oversight Act;
4. Promulgate rules for adoption by the Commission necessary for the implementation of the provisions of the Tax Preparer Oversight Act. Such rules shall include, but not be limited to:
  - a. preparing and administering tests required for registration,
  - b. adoption of rules of professional conduct for tax preparers consistent with incompetent and disreputable conduct as defined in Section 10.51 of Circular 230, "Regulations Governing the Practice of Attorneys, Certified Public Accountants, Enrolled Agents, Enrolled Actuaries, and Appraisers" before the

Internal Revenue Service Department of the Treasury Internal Revenue Service,  
Title 31, Code of Federal Regulations, Subtitle A, Part 10,

- c. standards of service consistent with the Duties and Restrictions relating to Practice Before the Internal Revenue Service as set out in Subpart B of Circular 230, "Regulations Governing the Practice of Attorneys, Certified Public Accountants, Enrolled Agents, Enrolled Actuaries, and Appraisers" before the Internal Revenue Service Department of the Treasury Internal Revenue Service, Title 31, Code of Federal Regulations, Subtitle A, Part 10,
- d. disclosures to clients with regard to outsourcing of work, fees, and true costs of refund anticipation loans, referred to as RALs,
- e. fee schedules according to statutory authorization, and
- f. such other matters deemed necessary by the Commission.

B. The Administrator of Consumer Affairs shall provide administrative support as needed to the Board.

C. The Commission with the advice of the Board shall make all final decisions regarding rules, applications for registration, educational requirements, fees and penalties regarding the regulation of tax preparers in this State pursuant to the provisions of the Tax Preparer Oversight Act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-513.4 of Title 14A, unless there is created a duplication in numbering, reads as follows:

A. On and after October 1, 2008, no individual shall assist with or prepare or offer to assist with or prepare in any one calendar year five or more tax returns for other individuals or entities or assume final responsibility for completed work on such tax returns on which preliminary work has been done by other individuals for a fee or for other consideration who is not currently registered pursuant to the provisions of the Tax Preparer Oversight Act.

1. Until October 1, 2008, as soon as the requirements of paragraphs 1 through 4 of subsection D of this section have been met, any individual or entity who was assisting with or preparing or offering to assist with or prepare tax returns in any one calendar year for five or more tax returns on October 1, 2007, shall be registered as tax preparers;

2. On and after October 1, 2008, all individuals or entities wanting to become registered tax preparers shall meet all the requirements of subsection D of this section in order to be registered.

B. The initial fee and renewal fee to be a registered tax preparer shall not exceed Two Hundred Dollars (\$200.00) for each individual, corporation, partnership, limited partnership, association or other entity.

C. On and after October 1, 2009, an applicant for renewal of registration shall be required to meet the requirements of paragraphs 1 through 4 of subsection D of this section.

D. Initial registration shall be granted by the Commission upon payment of the appropriate fee and the filing of an application, to an individual who:

1. Is eighteen years of age or older;
2. Is of good moral character;
3. Has not been convicted of or plead guilty or nolo contendere to a felony in this state, another state, or federal court;

4. Has signed as having read and understood the requirements of the rules of professional conduct and the standards enforceable pursuant to the Tax Preparers Oversight Act;

5. Has satisfied the education requirements as provided in the Tax Preparer Oversight Act;

and

6. Has passed a test for tax preparers.

E. Initial registration shall be granted by the Commission upon payment of the appropriate fee and the filing of an application, to a corporation, partnership, limited partnership, association or other entity which:

1. Provides information identifying the entity and its principals; and
2. Provides documentation prescribed by the principals indicating that each has read and understands the requirements of the rules of professional conduct and the standards enforceable pursuant to the Tax Preparers Oversight.

F. The Initial registration and renewal registrations shall be valid for two (2) years from the date of issuance.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-513.5 of Title 14A, unless there is created a duplication in numbering, to read as follows:

A. In order to be eligible to be registered as a tax preparer the applicant shall, at the time of filing the application have completed a minimum of sixty (60) hours of instruction in basic personal income tax law, theory and practice and ethics from an approved provider.

B. The educational requirements required by this subsection may be waived upon a showing by the applicant for registration of technical competency and knowledge by having obtained an accreditation credential from nationally recognized accreditation organization demonstrating competency of training and technical competence and knowledge.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-513.6 of Title 14A, unless there is created a duplication in numbering, reads as follows:

A. In order to assure continuing competence of tax preparers in tax law changes, individuals shall furnish evidence of participation in continuing education in tax return preparation. An individual shall complete a minimum of thirty-two (32) hours of continuing education during each two (2) year registration period.

B. In lieu of meeting the continuing education requirements at the time of renewal, the tax preparer may provide evidence that the tax preparer seeking registration renewal has obtained or maintained accreditation credentials as provided in Section 8 of this act.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-513.7 of Title 14A, unless there is created a duplication in numbering, reads as follows:

A. Registration may be revoked or suspended for violation of any one or more of the following:

1. Failure to register as a tax preparer;

2. Make or authorize the making of any statement or presentation oral, written, or recorded by any means which is intended to induce persons to use the tax preparation service of the tax preparer, which statement or representation is fraudulent, untrue, or misleading;

3. Obtain the signature of a client on a tax return or authorizing document which contains blank spaces to be filled in after it has been signed;

4. Fail to sign a client tax return when payment for services has been made;

5. Knowingly give false or misleading information to the Tax Preparer Oversight Board, the Commission on Consumer Credit or the Administrator of Consumer Credit; or

6. Violate any provision of the Tax Preparer Oversight Act or rules.

B. Any individual, corporation, partnership, limited partnership, association, or other entity determined to have violated or knowingly participated in the activity of another person in violating any provisions of the Tax Preparer Oversight Act or rule adopted pursuant to the act, may be assessed an administrative civil penalty not to exceed Five Thousand Dollars (\$5,000.00) for any such violation.